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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS QUESTIONS, INCLUDING ALTERNATIVE APPROACHES FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Elimination of All Forms of Religious Intolerance

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the interim report on the elimination of all forms of religious intolerance, prepared by Mr. Abdelfattah Amor, Special Rapporteur of the Commission on Human Rights, in accordance with General Assembly resolution 51/93 of 12 December 1996.

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ANNEX

Interim report on the elimination of all forms of religious intolerance prepared by the Special Rapporteur of the Commission on Human Rights in accordance with General Assembly resolution 51/93

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I. INTRODUCTION

1. At its forty-second session, the Commission on Human Rights decided, in resolution 1986/20 of 10 March 1986, to appoint for one year a special rapporteur to examine incidents and governmental action in all parts of the world inconsistent with the provisions of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, and to recommend remedial measures for such situations.

2. In accordance with the terms of that resolution, the Special Rapporteur submitted his first report to the Commission at its forty-third session.[1] His mandate was extended for one year by resolution 1987/15 of 4 March 1987, adopted at the same session of the Commission.

3. From 1988 onwards, the Special Rapporteur submitted yearly reports to the Commission.[2] In its resolutions 1988/55, 1990/27 and 1992/17, the Commission twice decided to extend the Special Rapporteur's mandate for two years, and then for three years until 1995.

4. After the resignation of Mr. Angelo Vidal d'Almeida Ribeiro, the Chairman of the Commission appointed Mr. Abdelfattah Amor as Special Rapporteur. The latter submitted his reports[3] to the Commission on Human Rights at its fiftieth, fifty-first, fifty-second and fifty-third sessions. By its resolution 1995/23 of 24 February 1995, the Commission decided to extend the Special Rapporteur's mandate for three years.

5. Pursuant to General Assembly resolutions 49/188 of 23 December 1994 and 50/183 of 22 December 1995, the Special Rapporteur submitted interim reports to the Assembly at its fiftieth and fifty-first sessions (A/50/440 and A/51/542).

6. This report is submitted pursuant to General Assembly resolution 51/93 of 12 December 1996. The Special Rapporteur has examined in situ visits and their follow-up, the development of a culture of tolerance and the status of communications since the fifty-third session of the Commission on Human Rights.

II. IN SITU VISITS AND THEIR FOLLOW-UP

7. Since taking up his appointment, the Special Rapporteur has sought to strengthen the in situ visit activities he carries out under his mandate.

8. To recapitulate, since 1994 the Special Rapporteur has carried out the following missions:

(a) Visit to China in November 1994 on the initiative of China;[4]

(b) Visit to Pakistan in June 1995 at the invitation of Pakistan;[5]

(c) Visit to the Islamic Republic of Iran in December 1995 on the initiative of Iran;[6]

(d) Visit to Greece in June 1996 at the invitation of Greece (A/51/542/Add.1);

(e) Visit to the Sudan in September 1996 at the invitation of the Government of the Sudan and pursuant to General Assembly resolution 50/197 of 22 December 1995 and Commission on Human Rights resolution 1996/73;

(f) Visit to India in December 1996 at the invitation of India;

(g) Visit to Australia in February-March 1997 at the invitation of Australia (report to be submitted to the Commission on Human Rights at its next session);

(h) Visit to Germany in September 1997 at the invitation of Germany (ibid).

9. These visits enable the Special Rapporteur to gather information on allegations and on incidents, norms and actions that are or appear to be inconsistent with the provisions of the 1981 Declaration, and also to analyse and publicize the positive experiences and initiatives of States pursuant to the relevant resolutions of the General Assembly and the Commission on Human Rights.

10. Requests for visits to Turkey and Viet Nam (in 1995) and to Indonesia and Mauritius (in 1996) have thus far proved fruitless. Despite reminder letters, Turkey continues to ignore the Special Rapporteur's request. Viet Nam, despite correspondence indicating that the Vietnamese authorities would consider the Special Rapporteur's request, has not responded with a final decision. The Special Rapporteur wishes to remind both States of the importance he attaches to his visiting them as soon as possible in a spirit of strengthening dialogue and developing cooperation.

11. A request for a visit was also sent to Israel in 1997, but no reply has so far been received. In terms of future visits, the Special Rapporteur is to travel to the United States of America at the invitation of that country at a date that should soon be set.

12. In parallel with these visits, the Special Rapporteur has sought to set a follow-up procedure in motion. To this end, letters were sent in 1996 to the Permanent Missions of China, the Islamic Republic of Iran and Pakistan to the United Nations Office at Geneva (A/51/542, annex I), and in 1997 to the Permanent Missions of Greece, India and the Sudan (A/52/477/Add.1), to obtain their comments and any information on actions undertaken or planned by the authorities concerned to implement the Special Rapporteur's recommendations.

13. The Chinese authorities replied in 1996 (A/51/42, annex II) and the Pakistan authorities in 1997 (A/52/477/Add.1). The Sudan also replied very quickly, and it should be noted that cooperation has been excellent since the Special Rapporteur's visit to that country (ibid), a fact which should be emphasized and applauded.

14. The Iranian authorities have not sent any replies since 1996 but have always cooperated with the Special Rapporteur, specifically in several rounds of consultations in Geneva. During the most recent consultations, in August 1997, and following the presidential elections in the Islamic Republic of Iran, the Special Rapporteur has had the feeling that cooperation with that country on the follow-up procedure could soon get under way.

15. The Special Rapporteur has also received cooperation from Greece and India and awaits their replies to his follow-up letter.

16. The Special Rapporteur wishes to thank all States concerned for their favourable reactions to the follow-up procedure begun in 1996, and particularly those which have responded formally.

17. Lastly, the Special Rapporteur calls on all States to accede, pursuant to the resolutions of the Commission on Human Rights and the General Assembly to requests for visits and for follow-up to those visits.

III. DEVELOPMENT OF A CULTURE OF TOLERANCE

18. Education can make a decisive contribution to the internalization of values based on human rights and to the emergence among both individuals and groups of tolerant and non-discriminatory attitudes and behaviour. It thus contributes to the dissemination of a culture of human rights.

19. As an essential component of the educational system, schools can provide a fertile and vital environment for lasting progress in the promotion of tolerance and non-discrimination in matters of religion or belief.

20. The Special Rapporteur therefore decided to conduct a survey in 1994 by means of a questionnaire addressed to States on problems relating to freedom of religion and belief from the standpoint of the curricula and textbooks of primary or basic and secondary educational institutions.[8] The results of the survey would make it possible to draw up an international school strategy to combat all forms of intolerance and discrimination based on religion or belief, which could centre on the elaboration and implementation of a common minimum programme of tolerance and non-discrimination.

21. The Special Rapporteur received replies from the following 79 States: Albania, Algeria, Andorra, Argentina, Armenia, Austria, Bahrain, Belarus, Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Chile, China, Colombia, Côte d'Ivoire, Croatia, Cuba, Cyprus, Denmark, Djibouti, Ecuador, Egypt, France, Germany, Guatemala, the Holy See, Honduras, India, Indonesia, Iraq, Ireland, Israel, Italy, Kyrgyzstan, Latvia, Lesotho, Liechtenstein, Luxembourg, Mali, the Marshall Islands, Mauritius, Mexico, Morocco, Namibia, Nauru, the Netherlands, New Zealand, Nicaragua, Niger, Norway, Oman, Pakistan, Paraguay, the Philippines, Portugal, the Republic of Korea, Romania, Saint Lucia, San Marino, Senegal, Singapore, Slovakia, Spain, Sweden, Switzerland, Thailand, the former Yugoslav Republic of Macedonia, Tunisia, Turkey, Uganda, Ukraine, the United Kingdom of Great Britain and Northern Ireland, the United States of America, Uruguay, Venezuela, Viet Nam, Yugoslavia and Zambia.

22. Recalling Commission on Human Rights resolution 1994/18, which encouraged the Special Rapporteur to examine the contribution that education could make to the more effective promotion of religious tolerance, and Commission resolutions 1995/23 and 1996/23 and General Assembly resolution 50/183, which stressed the importance of education in inculcating tolerance in matters of religion and belief, the Special Rapporteur deplores the lack of financial and human resources available to him to implement these resolutions.

23. Once again he urges the Office of the United Nations High Commissioner for Human Rights to show a real willingness to make a minimum of resources available for the religious intolerance mandate, so that the voluminous information received from the States listed above can eventually, once the current processing is completed, be analysed and put to use for their intended purpose.

IV. STATUS OF COMMUNICATIONS SENT SINCE THE FIFTY-THIRD SESSION OF THE COMMISSION ON HUMAN RIGHTS

24. This report on the status of communications and replies concerns communications sent since the fifty-third session of the Commission on Human Rights, the replies or absence of replies from States and late replies.

25. Since the fifty-third session of the Commission, the Special Rapporteur has addressed communications to 48 States: Afghanistan, Albania, Angola, Armenia, Austria, Azerbaijan, Belarus, Bosnia and Herzegovina, Brunei Darussalam, Bulgaria, China (3), the Comoros, the Czech Republic, Egypt, Gabon, Georgia, Greece, India, Islamic Republic of Iran, Iraq (2), Israel, Kuwait, Latvia, Mauritania, Mongolia, Mozambique, Myanmar, Nepal, Nicaragua, Nigeria, Oman, Pakistan, Portugal, Qatar, Romania, the Russian Federation (2), Singapore, Slovakia (2), Somalia, the Sudan, Switzerland, Thailand, Trinidad and Tobago, Turkey, the United Arab Emirates, Uzbekistan, Viet Nam and Yemen.

26. Among these communications, urgent appeals were addressed to China and the United Arab Emirates. The urgent appeal addressed to China was a call for information regarding the detention of Yulo Dawa Tsering, a Tibetan monk, whom the Special Rapporteur had consulted during his visit to China in 1995.[9] The Chinese Government replied as follows:

> "Mr. Yulo Dawa Tsering, aged 66, from the Dazi county (Lhasa) is a bonze at the Garden Temple in Lhasa (Tibet). In 1959, he was sentenced to life imprisonment for having participated in rebel movements, but was granted a special pardon in 1979. In 1987 he was sentenced to 10 years' imprisonment for incitement to acts of subversion aimed at overthrowing the Government and dividing the nation. He was paroled for good behaviour on 6 November 1994 (his parole lasted until 15 December 1995). The local area committee helped him to find work. Now that his parole is over, Mr. Yulo enjoys all the civil rights set forth in the Chinese Constitution. He is in good health and lives in good conditions. The Special Rapporteur's letter states that Mr. Yulo is currently under house arrest and deprived of his right to freedom of movement, expression and religion. That is not true."

27. The urgent appeal addressed to the United Arab Emirates was likewise a reminder, concerning the case of Mr. Elie Dib Ghalib, a Christian who was arrested and allegedly subjected to ill-treatment because he had married a Muslim. On 29 October 1996 a court declared his marriage null and void and sentenced Mr. Ghalib to 39 lashes and a year's imprisonment for immoral marital relations. The United Arab Emirates replied that the trial had been conducted in accordance with the provisions of the Shariah and the law and stated that "all are equal before the Shariah, the Constitution and the law" and that there had been no discrimination on the grounds of belief or nationality.

28. Based on the analysis of the communications, the following is a very general classification of the communities which have allegedly been the victims of violations of religious freedom:

(a) Christianity: Afghanistan, Angola, Armenia, Azerbaijan, Bosnia and Herzegovina, China, Egypt, Georgia, India, Iraq, Mozambique, Myanmar, Nepal, Qatar, Pakistan, Romania, the Sudan, Trinidad and Tobago, Turkey, the United Arab Emirates and Uzbekistan;

(b) Islam: Afghanistan, Azerbaijan, Bosnia and Herzegovina, Greece, Iraq, Qatar and Uzbekistan;

(c) Buddhism: China and Viet Nam;

(d) Other religions, religious groups and religious communities:

(i) Ahmadis: Pakistan;

(ii) Baha'is: Iran;

(iii) Jehovah's Witnesses: Armenia, Bulgaria, Gabon, Georgia, Latvia, Romania, Singapore and Slovakia;

(iv) Hare Krishna: Armenia;

(v) All religions, all religious groups and religious communities except the official or State religion or the predominant religion: Brunei Darussalam, the Comoros, Israel, Kuwait, Mauritania, Nicaragua, Oman, the Russian Federation, Somalia, Thailand and Yemen;

(vi) All religions, all religious groups and religious communities: Nigeria.

29. On the basis of an analysis by topic, the communications can be divided into six categories.

30. The first category concerns violations of the principles of non-discrimination in matters of religion and belief:

(a) It involves allegations concerning discriminatory policies and/or legislation in regard to religion and belief:

(i) In Myanmar, Christians from the state of Chin are alleged to be victims of a discriminatory policy;

(ii) In the Russian Federation, provincial legislation and regulations are said to impose restrictions on the activities of religious minorities. Similarly, reports suggest that without President B. N. Yeltsin's veto, the adoption of the "Law on Freedom of Conscience and on Religious Associations" on 23 June 1997 would have undermined the official recognition of religious groups and religious communities not belonging to the Russian Orthodox Church and restricted their activities. However, it is important to note that this law was definitively adopted in September 1997;

(iii) In Kuwait, citizenship is allegedly denied to non-Muslims;

(iv) In Brunei Darussalam, the Comoros, Kuwait, Mauritania, Oman, Qatar, Somalia, Uzbekistan and Yemen, non-Muslims are said to face a number of religious restrictions (see (d) below);

(b) Other examples of violations of the principle of non-discrimination are found in allegations concerning refusal to grant official recognition to certain religious groups and religious communities (Azerbaijan, Georgia, Latvia and Uzbekistan);

(c) There are also reports of legal bans against certain religious groups and religious communities, particularly in the case of the Jehovah's Witnesses in Gabon and Indonesia;

(d) In Thailand, the textbooks in public schools allegedly provide information on Buddhism only, and thus do not reflect the diversity of religious sensitivities and affiliations in the country. Certain public schools in some cantons of Switzerland are said to run courses on the Church of Scientology in which it is described as a sect. Parents belonging to that Church are said to have wished to opt for private education, but to have been refused permission to establish a private school.

31. The second category concerns violations of the principle of tolerance in matters of religion and belief:

(a) In Afghanistan, the extremism of the Taliban afflicts the whole of society through all its religious components, whether Muslim or non-Muslim. Some categories of persons may be more affected than others:

(i) In Afghanistan, women are among those who suffer the most, because of severe restrictions on their education and employment as well as the obligation to wear what is described as Islamic dress;

(ii) In certain regions of India and Nepal, there have been reports of incidents of intolerance against Christians and Christian converts;

(iii) In Iraq, Christians can be killed if an imam issues a fatwa to this effect;

(b) In Azerbaijan and Bulgaria, a climate of intolerance may adversely affect certain religious minorities and religious communities (Christian communities in Azerbaijan and the Jehovah's Witnesses in Bulgaria). In Georgia, the Orthodox Church is said to try to restrict the activities of other Christian organizations, while Romania is said to be hostile to members of the Greek Orthodox Church and to the Jehovah's Witnesses. In Nicaragua, there is allegedly a campaign by the Catholic Church to introduce Catholic textbooks in public schools. These textbooks would appear to preach a message of intolerance towards other religions.

32. It is important to remember that religious intolerance and religious extremism of any kind can occur both within a religion and between religions.

33. The third category concerns violations of freedom of thought, conscience and religion or belief:

(a) The question of conscientious objection is raised directly:

(i) In Albania the legislation does not provide for alternative service or other forms of unarmed national service for conscientious objectors, who may be subject to judicial proceedings, fines and imprisonment. Exemption from military service may be granted in return for monetary payment, which is a discriminatory measure;

(ii) In Belarus and Mongolia, the law does not provide for an alternative to military service;

(iii) In Austria, Portugal, the Czech Republic and Slovakia, there is a legal time limit within which conscientious objectors must declare their refusal to undertake military service or apply to do non-military national service;

(iv) In Austria, Portugal, Macedonia and Slovakia, the duration of alternative service is such as to make it appear a form of punishment;

(v) In Slovakia, there have been reports of conscientious objectors being sent to prison;

(b) The freedom to change one's religion is also being violated:

(i) In Qatar and Kuwait, the conversion of a Muslim to another religion is strictly prohibited and is punishable by death (Kuwait);

(ii) In India and Israel, draft laws banning conversion have been drawn up;

(iii) In Egypt, a Muslim who converted to Christianity was arrested and was allegedly interrogated to force him to provide information about the activities of converts;

(iv) In India, a Hindu who converted to Christianity is said to have been attacked by Hindu extremists.

(v) In Iraq, a young Christian woman was reportedly forced to marry a Muslim and convert to Islam;

(vi) In Myanmar, there are reports that the army has tried to conduct campaigns to convert Christians in the state of Chin to Buddhism. In one monastery, children are said to have been forced to repeat Buddhist prayers every day and some parents are said to have been paid sums of money in exchange;

(c) The fourth category concerns violations of the freedom to manifest one's religion or belief:

(i) In Afghanistan, Azerbaijan, Bulgaria, China, Mozambique, Myanmar, Nigeria, the Russian Federation, Turkey and Uzbekistan, there are allegations that the authorities have imposed controls on or interfered illegally with the religious activities of all or certain religious groups or religious communities;

(ii) In Georgia and Romania, the national Orthodox Church is said to have tried to restrict the activities of other religions and religious groups and religious communities;

(iii) In Brunei Darussalam, the Comoros, Kuwait, Mauritania, Oman, Qatar, Somalia and Yemen, proselytizing by non-Muslims aimed at Muslims is said to be forbidden. In Azerbaijan, there is reportedly a law forbidding all forms of proselytizing by non-nationals. In Bulgaria, Jehovah's Witnesses are said to have been expelled, arrested, detained, mistreated or convicted because of their proselytizing work;

(iv) In Kuwait, Oman, Uzbekistan and Yemen, the publication of non-Muslim religious material is said to be prohibited, while the importation of such material is forbidden in Brunei Darussalam. In Nigeria, the broadcasting of religious programmes and listening to religious cassettes are said to be prohibited and punishable by imprisonment. In Mauritania, Christians have allegedly been harassed or even arrested for distributing Christian literature outside of their community;

(v) In Brunei Darussalam, the authorities are said to have imposed restrictions on the teaching of the history of religions and other subjects related to religion in non-Muslim educational institutions, and to require that Islam be taught there. In Armenia, permission for a teacher to provide religious instruction is said to depend on the approval of the national Orthodox Church;

(vi) In Afghanistan, non-Muslims are allegedly unable to practise their religion freely and Muslims are said to be forced to attend Friday prayer at the mosque. In Qatar and Kuwait, non-Muslims reportedly have to restrict the practice of their religion to the confines of their own homes.

34. The fifth category concerns violations of the freedom to dispose of religious property:

(a) In Brunei Darussalam and Kuwait, the authorities are said to have refused permission to build, enlarge or renovate non-Muslim places of worship. In Pakistan, a court allegedly transferred ownership of an Ahmadi place of worship to non-Ahmadis, while in Myanmar, construction of a church was stopped by the authorities despite the fact that a construction permit had been obtained. In Greece, a Muslim religious leader was purportedly taken to court and then released after being accused of illegally building a mosque. In Azerbaijan, Christians were reportedly driven from the establishments where they were carrying out religious activities. In Georgia and Azerbaijan, Armenian Orthodox churches are said to have been closed. In Azerbaijan and the Russian Federation, religious minorities are reportedly having difficulty renting rooms to be used as places of worship. In Bulgaria, in one city, Jehovah's Witnesses are apparently banned from renting buildings. In Bosnia and Herzegovina and in Nepal, places of worship are said to have been attacked and even destroyed. In Pakistan, in Karachi, peaceful demonstrations by Christians protesting against the destruction of Christian properties including churches were allegedly suppressed by the police. In Romania and Georgia, the problem of restitution of goods and properties confiscated under the former regime has been raised;

(b) In Turkey, a municipality is said to have decided to expropriate part of a Christian cemetery in order to widen a road despite opposition by a Christian church. Some graves were apparently profaned during that operation;

(c) In the Sudan, Christian schools have reportedly been bulldozed;

(d) In Georgia and in Singapore, Jehovah's Witness literature has allegedly been confiscated. In Uzbekistan, the authorities are said to have confiscated Bibles. In Nepal, Christian religious material has apparently been destroyed by Hindus. In Singapore, Jehovah's Witnesses have allegedly been penalized for possession of their banned literature.

35. The sixth category concerns violations of the right to life, physical integrity and health of persons (clergy and believers).

36. There have been reports of many cases of harassment and threats (Azerbaijan, Romania and Uzbekistan); of mistreatment (Afghanistan, Bulgaria, Islamic Republic of Iran, Pakistan, Romania, United Arab Emirates, Uzbekistan); of arrests and detentions (Angola, Bulgaria, China, Islamic Republic of Iran, Pakistan, Uzbekistan and Viet Nam) and even of disappearances (China, the Russian Federation and Uzbekistan) and murders (the Islamic Republic of Iran, Iraq and Pakistan). In the case of China in particular, besides the urgent appeal, communications have been sent concerning the situation of Ghedün Nylmo, eight years old and recognized by the Dalai Lama as the eleventh reincarnation of the Panchen Lama, as well as allegations of prison sentences for "conspiring to split the country" and "leaking State secrets" imposed on Chadrel Rinpoche (a Tibetan monk), his assistant Champa Chung and another Tibetan named Samdrup who allegedly communicated with the Dalai Lama during the search for the child reincarnation of the Panchen Lama. In the case of Iraq, there have been allegations that the security forces have attacked Shiite pilgrims in Karbala'

and that two Assyro-Chaldeans suspected without proof of murdering a Muslim who abducted their daughter or sister and forced her to marry him and convert to Islam, were murdered. The two Christians were reportedly detained and tortured to death by a crowd following a fatwa from an imam calling for such actions. In the case of Viet Nam, a communication was sent concerning the three bonzes Thich Tri Tuu, Thich Mai Chanh and Thich Hai Thinh, who are said to be under house arrest.

37. With regard to replies of States to communications other than urgent appeals, the deadline had not expired for 20 States at the time when this report was written: Afghanistan, Albania, Armenia, Austria, Azerbaijan, Belarus, China, the Islamic Republic of Iran, Iraq, the former Yugoslav Republic of Macedonia, Mongolia, Nepal, Nicaragua, Pakistan, Portugal, the Russian Federation, Singapore, Slovakia, the Czech Republic and Trinidad and Tobago.

38. Of the 33 States for which the deadline has expired (Angola, Bosnia and Herzegovina, Brunei Darussalam, Bulgaria, the Comoros, China (2), Egypt, United Arab Emirates, Gabon, Georgia, Greece, India, Iraq, Israel, Kuwait, Latvia, Mauritania, Mozambique, Myanmar, Nigeria, Oman, Qatar, Romania, the Russian Federation, Slovakia, Somalia, Sudan, Switzerland, Thailand, Turkey, Uzbekistan, Viet Nam and Yemen), eight States have replied (China - see the list of replies to urgent appeals given above - Greece, Israel, Oman, Romania (2), Switzerland, United Arab Emirates and Viet Nam).

39. With reference to the content of replies, Greece, in response to a communication summarized under the fifth category of violations, explained that construction work on the mosque in the village of Kimmeria (Xanthi) had been interrupted for the reason that

> "The extended basement as well as the minaret of the mosque were not included in the approved construction licence by the competent authorities. The Greek State enforced the law by taking the necessary steps to stop arbitrary construction works. However, after the issuance of a new revised licence, the construction work could start again in conformity with the law ... Yet until today, no application for such a revised construction licence has been submitted to the relevant authorities for approval by those interested in continuing the building".

40. Israel, replying to a communication on a draft law banning religious conversion, stated that since the sources of information had not been identified, the allegations were vague and the law in question was only a draft, the request by the Special Rapporteur was neither appropriate nor necessary. The Special Rapporteur informed the Permanent Mission of Israel to the United Nations Office at Geneva that his sources of information always remained confidential and that any allegation was based on more than one source of information. He invites Israel to cooperate more fully with a view to better protecting religious freedom.

41. Oman, replying to a communication summarized under the first and fifth categories of violations, pointed out that its legislation guaranteed freedom of religion and "religious observance".

42. Romania, in reply to a communication summarized under the second, fourth, fifth and sixth categories of violations, explained its policy on democratization and respect for the law, including in the area of religion.

> "Resolute measures have been taken by the Government of Romania, both at the administrative and legislative levels, to overcome past injustices and to guarantee the freedom of religion, as enshrined in the 1991 democratic Constitution of Romania and in European and international human rights instruments to which the country is a party".

Referring to the situation of the Greek Catholic church, the Romanian authorities stated that the process of restitution of properties confiscated under the former regime had been accelerated.

> "The Upper Chamber of the parliament of Romania - the Senate - has passed new legislation on 12 June 1997 providing that the Greek Catholic Church is to be given back one church building in each locality in which the Orthodox Church has several church buildings and there are local residents of Greek Catholic denomination".

The authorities also stated that they were taking the necessary measures in relation to all displays of intolerance. With regard to the Jehovah's Witnesses, the authorities recalled that they were recognized by law and that their activities were protected against any act violating human rights. The Government's Department of Religious Affairs in fact adopted on 30 April 1997 "an order addressed to all local public authorities, that recognized their full entitlement to have or build their own administrative buildings or places of worship".

43. The Special Rapporteur wishes to thank the Romanian authorities in particular for their very detailed replies, especially the second reply, which included a first part entitled "Implementation of the 1981 Declaration" referring to the "Constitution of Romania" and the "internal regulatory framework governing the question of religion"; a second part entitled "The contribution of education to more effective promotion of religious tolerance", and a third part entitled "Allegations of intolerance by the Orthodox clergy towards religious minorities: Greek Catholics and Jehovah's Witnesses".

44. Switzerland, in reply to a communication summarized under the first category of violations, demonstrated in a careful review, especially of cantonal and federal court decisions, that the members of the Church of Scientology were not treated in a discriminatory manner in comparison with other religious communities, particularly in the area of public and private education. Furthermore, it emphasized that adequate legal means existed at the federal and cantonal levels, through which the representatives of the Church of Scientology had been able to secure enforcement of the rights they were claiming.

45. Viet Nam, in reply to a communication summarized under the sixth category of violations, said that Le Quang Vinh (Thich Tri Tu), Nguyen Chon Tam (Thich Hai Chanh) and Phu Thinh (Thich Hai Thinh) had been released and could freely carry on their religious activities.

46. The Special Rapporteur addressed reminders to States that had not replied to communications addressed to them in connection with the fifty-third session of the Commission on Human Rights: Albania, Algeria, Bolivia, Chad, Eritrea, Georgia, Greece, Israel, Lebanon, Malaysia, Maldives, Moldova, Nigeria, Pakistan, Saudi Arabia, Singapore, Somalia, Tajikistan, the United States of America, Viet Nam and Yemen.

47. Saudi Arabia replied that the Government of the Kingdom respected and valued religious freedom in accordance with its laws. It specified that it was not opposed to non-Muslims practising their religion in their homes. In addition to being guaranteed freedom in private life and the inviolability of their homes, under article 37 of the Constitution Christians have, according to the authorities, the same status of all other residents of the Kingdom, Muslim or otherwise. Islam commands that the people of the Book should be treated with justice and probity, and they are on an equal footing with Muslims as to the rights and duties that stem from the social order, in keeping with the Islamic doctrine that "their rights are the same as our rights and their responsibilities are the same as our responsibilities". As for the Shiites, the authorities maintain that nothing in the Shariah or in the Constitution establishes any distinction between Shiites and non-Shiites. The absence of any discriminatory practice against Shiites was likewise emphasized, as was the fact that the State punished any departure from this policy by isolated individuals. Regarding the allegation that the wearing of the turban during prayers was prohibited, the reply was that it would be inconceivable for the Government of the Kingdom to forbid following the example of the Prophet himself. Lastly, the allegations of discrimination in educational matters by Sunni Muslims were refuted.

48. The Special Rapporteur thanks the Saudi Arabian authorities for their detailed and closely reasoned reply and attaches the highest importance to their firm intention to cooperate with him and with all the human rights bodies. Their intention deserves to be noted and warmly welcomed.

49. Bolivia explained that, in legal terms, the procedure for registering non-Catholic religious organizations was not long and costly. It also refuted the allegation that the holding of non-Catholic religious services was forbidden in the army.

50. Malaysia stated that all persons who had belonged to the Al Arqam movement,[10] now banned, had been released and had asked the Government to help them to counteract the aberrant teachings spread by that movement.

51. Regarding late replies received after the report to the fifty-third session of the Commission on Human Rights was completed but before the letters of reminder were sent, the States involved were Burundi, China, Cyprus, Ethiopia, Greece, the Islamic Republic of Iran, Japan, Nepal, Turkey and Yugoslavia.

52. Burundi explained that many of the murders of religious had had nothing to do with religious intolerance.

53. China recalled that its legislation and policy guaranteed the protection of freedom of religion. It stated that

"All religious organizations in China operate independently, are autonomous and disseminate their teachings, and resist any outside effort to direct their internal affairs or interfere with them, so that Chinese citizens enjoy guaranteed freedom of religion".

On the subject of the allegations relating to places of worship, the authorities explained that in Shanghai in particular, the bodies responsible for religious affairs had begun to register all places of worship and that the security services had searched and closed some premises where nefarious beliefs were being taught. The allegations regarding the closing of premises where religious instruction was provided were refuted. Buildings were said to have been destroyed in the town of Wenzhou because they were not in compliance with the regulations. The Chinese authorities also accused the Dalai Lama of agitating for the independence of Tibet and, with reference to the allegations that monks had been arrested and that a monk from the temple of Ganden had even been killed, they maintained that the monks had attacked government officials and destroyed a police station.

54. Cyprus stated that Salih Askerogul, a Turkish Cypriot who had been condemned to three years' imprisonment for conscientious objection, released after serving three quarters of his sentence and then detained again for 24 hours on an arrest warrant to which he had objected, had been awarded financial compensation and that the case was closed.

55. Ethiopia, in reply to a communication alleging religious intolerance against the Lutheran Church "Mekane Vesus", recalled that its Constitution guaranteed freedom of religion and freedom to practise one's religion. The Ethiopian authorities refuted the allegations that "Mekane Vesus", which was recognized as a legal person under Ethiopian law, had been classified as a sect, and also the allegations that the Church's religious leaders had been arrested. Attention was drawn to the problem of differences between Orthodox believers and Protestants, a problem the Government claimed to be addressing by way of human rights programmes.

56. Greece stated that Joannes Giantzaklides had been exempted from military service as a Seventh-Day Adventist minister, in accordance with article 6 of Act No. 1763/88.

57. The Islamic Republic of Iran, replying to allegations concerning the deaths of Christian religious leaders, provided statements by the Assyro-Chaldean churches urging that those events not be exploited politically with a view to discrediting the Islamic Republic of Iran, and stating that the perpetrators of the murders had confessed to the crimes.

58. Japan, replying to a communication alleging that the Subversive Organization Law had been applied against the organization known as the Supreme Religious Group and that the Law was generally having a detrimental impact on religious minorities, explained that the legislation in question allowed control measures such as the restriction of activities or the dissolution of organizations only when the strict conditions provided for by the law were met, namely, the need to defend public health against subversive terrorist activities. The Japanese authorities stated that investigation had shown that

the conditions for applying the law had been met in the case of the "Aum Supreme Truth" group, which had been responsible for terrorist acts such as the diffusion of Sarin gas.

59. In response to a communication alleging that a law forbidding proselytism had been adopted, Nepal stated that there was full freedom of religion, and sent a copy of article 19 of its Constitution stipulating that

> "Every person shall have the freedom to profess and practice his own religion as handed down to him from ancient times, having due regard to traditional practices, provided that no person shall be entitled to convert another person from one religion to another".

60. Turkey stated that non-Muslim minorities enjoyed the rights guaranteed by the Treaty of Lausanne and the Turkish Constitution (arts. 10 and 24). Concerning alleged attacks against non-Muslim places of worship, the authorities indicated that investigations were under way in order to bring those responsible to justice, but that in any event it was a matter of isolated cases. The allegation that properties belonging to the Armenian Church on Kizil Andau (Prince's Island) had been confiscated was not confirmed by the authorities. Regarding the Halki Theological School, it was recalled that in 1971 its status had been modified:

> "The Halki Theological School for High Religious Education then became devoid of any legal foundation and had to be incorporated into another appropriate institution operated by the State. As no such institution existed, it was no longer possible for the academy-level division of the Halki Theological School to continue its activities."

Furthermore, the allegation concerning religious discrimination against the Alawites was refuted. Regarding the events of July 1993 which had led to the death of 37 Alawites, it was stated that they had actually involved premeditated provocations by agitators seeking to create a climate of terror in Turkey.

61. Yugoslavia, replying to a communication alleging that conscientious objectors had been convicted and the Jehovah's Witnesses subjected to intolerance, gave a detailed outline of its legal provisions guaranteeing freedom of religion, especially for the different religious communities in the country. It emphasized that intra-religious tolerance was satisfactory, despite a few isolated incidents.

V. CONCLUSIONS AND RECOMMENDATIONS

62. The Special Rapporteur wished to formulate conclusions and recommendations on the status of communications and on certain aspects of religious freedom and the protection and promotion of that freedom, as well as on the strengthening of the Special Rapporteur's mandate.

A. Aspects of freedom of religion and belief

1. Right to have, manifest and practise the religion or belief of one's choice

63. With reference to the six categories of violations resulting from the analysis of the communications by topic (see chap. IV), the Special Rapporteur wishes to draw attention to the following.

64. Article 1, paragraph 1, of the 1981 Declaration defines the right to freedom of thought, conscience and religion as including freedom to have a religion or whatever belief of one's choice, and freedom, either individually or in community with others and in public or private, to manifest one's religion or belief in worship, observance, practice and teaching. Article 1, paragraph 2, adds that no one shall be subject to coercion which would impair his freedom to have a religion or belief of his choice. Paragraph 3 of the same article subjects the freedom to manifest one's religion or belief only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others. The Special Rapporteur also wishes to recall general comment No. 22 (48) adopted on 20 July 1993 by the Human Rights Committee concerning article 18 of the International Covenant on Civil and Political Rights, which deals with freedom of thought, conscience and religion. In its comment, the Committee considers that restrictions on the freedom to manifest religion or belief are permissible only if they are prescribed by law, are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others, and are applied in a manner that does not vitiate the right to freedom of thought, conscience or religion.

65. Article 6 of the 1981 Declaration lists various freedoms which, inter alia, are implied in the right to freedom of thought, conscience, religion or belief, namely: freedom to worship or assemble in connection with a religion or belief, and to establish and maintain places for these purposes (see, in particular, the fifth category, which deals with violations of the freedom to dispose of religious property); freedom to establish and maintain appropriate charitable or humanitarian institutions (ibid.); freedom to make, acquire and use to an adequate extent the necessary articles and materials related to the rites or customs of a religion or belief (see the fourth category, which concerns violations of the right to manifest one's religion or belief, fifth category); freedom to write, issue and disseminate relevant publications in these areas (ibid.); freedom to teach a religion or belief in places suitable for these purposes (see the first category, which deals with violations of the principle of non-discrimination in religion and belief, fourth and fifth categories); freedom to solicit and receive voluntary financial and other contributions from individuals and institutions; freedom to train, appoint, elect or designate by succession appropriate leaders called for by the requirements and standards of any religion or belief (see the sixth category, which concerns violations of the right to life, physical integrity and health); freedom to observe days of rest and to celebrate holidays and ceremonies in accordance with the precepts of one's religion or belief (see the second category, which concerns violations of the principle of tolerance in the area of religion and belief, fourth and fifth categories); and freedom to establish and maintain communications with

individuals and communities in matters of religion or belief at the national and international levels (see the sixth category).

2. Right to change one's religion

66. Referring mainly to the third category of violations and tangentially to the second category of violations (India and Nepal), the Special Rapporteur wishes to make the following comments on the right to change one's religion.

67. Article 18 of the Universal Declaration of Human Rights sets forth the principle according to which everyone has the right to freedom of thought, conscience and religion and states clearly that this right includes freedom to change one's religion or belief and freedom, either alone or in community with others and in public or private, to manifest one's religion or belief in teaching, practice, worship and observance.

68. While the International Convention on the Elimination of All Forms of Racial Discrimination and the International Covenant on Civil and Political Rights are a direct continuation of the Universal Declaration, they do not refer explicitly to the right to change one's religion.

69. Article 18 of the Covenant recognizes in a general way the freedom to have or to adopt a religion of one's choice. The 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief also affirms in a general manner the freedom to have a religion or whatever belief of one's choice. Like the Covenant, the Declaration does not refer formally or explicitly to the freedom to change one's religion, although this should not be understood as an expression of the wish to dilute the content of the provisions of the Universal Declaration.

70. The Vienna World Conference on Human Rights, while recognizing concerns about specific circumstances and calling upon national legislations, strongly affirmed the universality of human rights.

71. The formal variations that surrounded the recognition and development of religious freedom cannot lead to a failure to recognize the right to change one's religion.

72. Lastly, there are many variations on a single theme that have called into question the foundations of religious freedom and have bolstered the position of those who believe that religious freedom cannot include recognition of the right to change one's religion.

73. It is today acknowledged that religious freedom is inseparable from the freedom to change one's religion.

74. As early as 1986, Elisabeth Odio Bénito wrote that, while the provisions of the 1948 and 1981 Declarations and of the Covenant were worded differently, they all had the same ultimate objective, namely, that any person had the right to renounce a religion or belief and adopt another or adopt none at all. That was, she added, the implicit meaning of the concept of the right to freedom of

thought, conscience, religion and belief, irrespective of the form in which this concept was expressed.

75. In its general comment No. 22 (48) on article 18 of the Covenant, adopted on 20 July 1993, the Human Rights Committee comes to the same conclusion. The Committee observes that the freedom to have or to adopt a religion or a belief necessarily entails the freedom to choose a religion or belief, including the right to replace one's current religion or belief with another or to adopt atheistic views, as well as the right to retain one's religion or belief.

76. The Special Rapporteur therefore wishes to stress, once again, that religious freedom includes the right to change one's religion, which is a legally necessary dimension of that freedom.

3. The right of conscientious objection

77. With regard to the third category of violations, the Special Rapporteur wishes to stress that the right of conscientious objection is a right which is closely linked with freedom of religion.

78. The Special Rapporteur considers it necessary to remind States of Commission on Human Rights resolution 1989/59, reaffirmed several times, which recognizes the right of everyone to have conscientious objections to military service as a legitimate exercise of the right to freedom of thought, conscience and religion as laid down in article 18 of the Universal Declaration of Human Rights as well as article 18 of the International Covenant on Civil and Political Rights. The Commission therefore recommends to States with a system of compulsory military service, where such provision has not already been made, that they introduce for conscientious objectors various forms of alternative service which should be in principle of a non-combatant or civilian character, in the public interest and not of a punitive nature. In its resolution 1984/93 on conscientious objection to military service, the Commission on Human Rights also called for minimum guarantees to ensure that conscientious objection status can be applied for at any time.

B. Protection and promotion of freedom of religion and belief

1. Legislation and freedom of religion and belief

79. With reference primarily to the first category of violations, and secondarily to the third and fourth categories of violations, the Special Rapporteur wishes to note the following.

80. Article 2 of the 1981 Declaration prohibits discrimination against anyone, by any State, institution, group of persons or person, on the grounds of religion or belief. Intolerance and discrimination based on religion or belief are defined in the Declaration as any distinction, exclusion, restriction or preference based on religion or belief and having as its purpose or as its effect nullification or impairment of the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis.

81. Article 4 of the Declaration provides that States shall make all efforts to enact or rescind legislation where necessary to prohibit any such discrimination, and to take all appropriate measures to combat intolerance on the grounds of religion or belief in this matter.

82. The Special Rapporteur also wishes to note that the General Assembly, in resolution 51/93, and the Commission on Human Rights, in resolution 1997/18, urged States to establish adequate and effective constitutional and legal guarantees to ensure to all, without discrimination, freedom of thought, conscience, religion and belief, including the provision of effective remedies in cases where the right to freedom of religion or belief is violated.

83. In this context, the Special Rapporteur had already sent a note verbale to all States in 1994 drawing their attention to Commission on Human Rights resolution 1994/18 relating to his mandate and inviting them to communicate all new information within the framework of that mandate and any other observations they might wish to make in that regard. Replies from several Governments referred in particular to the relevant constitutions, laws and regulations.[11]

84. The Special Rapporteur will make another request to States in the near future with a view to obtaining, for the purposes of analysis, taking into consideration the 1981 Declaration, the text of the constitution in force or any other text taking the place of the constitution and the texts of laws and regulations regarding freedom of religion and worship.

2. Other issues

85. The Special Rapporteur once again wishes to stress the importance of an inter-faith dialogue in order to combat all extremism, whatever religion is invoked, and ensure religious tolerance both internationally and within States.

86. The establishment of firm foundations for religious tolerance and hence for the protection and promotion of freedom of religion and belief will also require specific action in the sphere of education, as described in chapter III of this report. It is essential not simply to control intolerance and discrimination based on religion or belief but to prevent them by developing a culture of tolerance through an international school strategy to combat all forms of discrimination based on religion or belief.

87. The communications sent out by the Special Rapporteur, especially the communication concerning Afghanistan, raise the question of women and religion. The Special Rapporteur wishes to stress that the Commission on Human Rights, in its resolution 1997/18, "urged States, in conformity with international standards of human rights, to take all necessary action to combat hatred, intolerance and acts of violence, intimidation and coercion motivated by intolerance based on religion, including practices which violate the human rights of women and discriminate against women. The Commission also stressed the need for the Special Rapporteur to apply a gender perspective, inter alia, through the identification of gender-specific abuses, in the reporting process, including in information collection and in recommendations".

88. The Commission on Human Rights, in its resolution 1997/43 of 11 April 1997 entitled "Integrating the human rights of women throughout the United Nations" also encouraged the strengthening of cooperation and coordination among all human rights treaty bodies, special rapporteurs, special procedures and other human rights mechanisms of the Commission and the Subcommission on Prevention of Discrimination and Protection of Minorities, and requested that they regularly and systematically take a gender perspective into account in the implementation of their mandates, including information and qualitative analysis in their reports on violations of the human rights of women.

89. This year, the communications concerning women related to Afghanistan, Indonesia and Iraq. In order to obtain more information, and in particular sources of information on the question "women and religion", especially women victims of intolerance and discrimination based on religion and belief, and to contribute to the promotion of the rights of women, the Special Rapporteur intends to pay particular attention in future to the status of women from the perspective of religion and hopes to receive cooperation from States and non-governmental organizations in this respect.

C. Strengthening of the mandate of the Special Rapporteur

90. As indicated in previous reports, an increase in the human, financial and technological resources assigned to the mandate is essential both to ensure the credibility of the activities of the Special Rapporteur and the United Nations and for the sake of human rights.

91. The initiatives taken by States, intergovernmental organizations and non-governmental organizations in the sphere of freedom of religion and belief make a useful contribution to the implementation of the mandate on religious freedom.

92. The Special Rapporteur emphasizes the development of initiatives and activities that help, directly or indirectly, to protect and/or promote religious freedom and to combat all forms of discrimination and intolerance based on religion and belief. In that connection, he wishes to single out not only the activities relating to research and publications, but also the contribution made by computerized scientific networks to the protection and promotion of religious freedoms.

93. Lastly, the Special Rapporteur wishes to thank the States, non-governmental organizations and individuals acting in a personal capacity that have participated in various ways in the activities relating to the mandate.

Notes

[1] E/CN.4/1987/35.

[2] E/CN.4/1988/45 and Add.1, E/CN.4/1989/44, E/CN.4/1990/46, E/CN.4/1991/56, E/CN.4/1992/52 and E/CN.4/1993/62 and Corr.1 and Add.1.

[3] E/CN.4/1994/79, E/CN.4/1995/91 and Add.1, E/CN.4/1996/95 and Add.1 and 2 and E/CN.4/1997/91.

[4] E/CN.4/1995/91.

[5] E/CN.4/1996/95/Add.1.

[6] E/CN.4/1996/95/Add.2.

[7] E/CN.4/1997/91/Add.1.

[8] See E/CN.4/1995/91, annex I.

[9] See E/CN.4/1995/91.

[10] See E/CN.4/1997/91.

[11] See E/CN.4/1995/91/Add.1.